

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) <div style="text-align: center;">62723A</div>	
	Application Number <div style="text-align: center;">10/543,121</div>	Filed <div style="text-align: center;">July 22, 2005</div>	
	First Named Inventor <div style="text-align: center;">Gilbert Bouquet, et al.</div>		
	Art Unit <div style="text-align: center;">1796</div>	Examiner <div style="text-align: center;">Olga Asinovsky</div>	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 45%;"> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. <u>42,414</u></p> </div> <div style="width: 50%;"> <p><u>/M. Robert Christy/</u> Signature</p> <p><u>M. Robert Christy</u> Typed or printed name</p> <p><u>989-636-0413</u> Telephone number</p> <p><u>April 24, 2008</u> Date</p> </div> </div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.	:	10/543,121	Confirmation No. 4365
Applicant (s)	:	Gilbert Bouquet, et al.	
Filed	:	July 22, 2005	
TC/A.U.	:	1796	
Examiner	:	Olga Asinovsky	
Title	:	PARTICLE SIZE AND MORPHOLOGY CONTROL IN RUBBER MODIFIED MONOVINYLDENE AROMATIC POLYMERS	
Docket No.	:	62723A	
Customer No.	:	00109	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Responsive to the Final Rejection dated January 25, 2008, Applicants hereby requests a Pre-Appeal Brief Review.

This submission accompanies our Response B and Notice of Appeal, submitted April 24, 2008.

No after final or proposed amendments have been made.

## REMARKS

The Examiner has rejected Claims 1 to 13 and 17 to 19 under 35 U.S.C. 103(a) as being unpatentable over Priddy et al (USP 5,721,320) in view of EP 0892820.

As described in more detail in the application, Applicant claims a mass/solution polymerization process comprising polymerizing a vinyl aromatic monomer in the presence of a functionalized diene rubber having a solution viscosity of from 5 to less than 50 centipoise (cps) wherein the functional group on the rubber enables controlled radical polymerization such that the resulting grafted rubber particles have a broad monomodal size distribution.

Priddy discloses a bulk (mass) polymerization process comprising a rubber carrying a functionalized group enabling controlled radical polymerization with a vinyl aromatic monomer. Priddy is silent as to viscosity of the functionalized rubber.

EP 0892820 discloses a process for preparing modified polymers from vinyl aromatic monomers wherein the rubber has a bimodal particle size distribution. EP 0892820 is silent as to the viscosity of the rubbers used in its process.

Neither Priddy nor EP 0892820 teach or suggest any viscosity limitations regarding the rubbers used in their respective inventions.

Applicant asserts that the Examiner has not establishes a case of prima facie obviousness and that the 103(a) rejections are unsupported by the cited prior art. The Examiner has ignored a material limitation of the present invention, namely that the functionalized rubber must have a solution viscosity of from 5 to less than 50 cps. All of the cited references are silent as to rubber solution viscosity. The Examiner has not established a case of prima facie obviousness because the references cited do not contain every feature of the claimed invention (Response B page 4, paragraphs 1 to 5).

Further, the Examiner makes an argument regarding the inherency of rubber solution viscosity based on rubber particle size (OA dated 1/25/08, page 4, paragraph 2) which Applicant is unable to understand. Applicant asserts there is no such relationship (Response A, paragraph bridging pages 5 and 6 and Response B page 5, paragraphs 1 to 5) and, even if there was, neither reference teaches or suggests Applicant's functionalized rubber having a preferred solution

viscosity of from 5 to less than 50 cps. Applicant believes Claims 1 to 13 and 17 to 19 are patentable in full.

Applicant has shown the present invention claims a process to make a rubber modified composition with improved performance properties based on the selection of a specific type of functionalized rubber having a specific solution viscosity range as compared to rubber modified compositions made from functionalized rubbers with solution viscosities outside of the claimed range (Response A, page 4, last paragraph through page 7, first paragraph and Affidavit by Gilbert C. Bouquet, dated 10/10/07). Applicant asserts the present invention is novel, unobvious, and provides surprising results and Claims 1 to 13 and 17 to 19 are patentable in full.

## **CONCLUSIONS**

Based on the remarks, arguments, Affidavit, and amendments previously presented in Responses A and B and summarized herein, Applicant believes all grounds of rejection have been fully traversed and previously amended Claims 1, 6, 9, and 10 and original Claims 2 to 5, 7, 8, 11 to 13, and 17 to 19 are patentable in full. Accordingly, Applicant requests the pre-appeal conference panel withdraw all rejections, allow all pending claims, and close prosecution at the earliest possible convenience.

Respectfully submitted,

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